

EMPLOYERS MAY QUALIFY FOR PENALTY REDUCTION

WASHINGTON -- Some businesses penalized for failing to make timely employment tax deposits during the first quarter of 1999 may be able to lower their penalties because of tax law changes that apply to federal tax deposits due after January 18, 1999.

Although the Internal Revenue Service intended to advise taxpayers of these relief provisions when it sent the penalty notices, it inadvertently omitted the explanations. The IRS will write to these taxpayers, apologizing for the omission and telling them about the new relief features. It will also include the relief information with future penalty notices. Eligible taxpayers, who would have received the penalty notices in late May or early June, may get the penalty relief by calling the IRS at the number listed on the notice.

One relief provision allows taxpayers to designate the period to which a specific deposit applies, rather than having deposits applied against tax liabilities in the order they were due. This can prevent the "cascading" of penalties, which occurs when a deposit is less than the amount due and a portion of the next deposit is applied against the earlier shortfall. This results in a second penalty, for the new deposit shortfall.

For example, a taxpayer who should deposit \$3,000 each month but deposits only \$2,000 for the first month of the quarter would incur a penalty ranging from two to 15 percent, depending on the lateness of the deposit. If the taxpayer next deposits \$3,000 the following month, \$1,000 is applied against the previous month's shortfall, leaving the second month's deposit short by \$1,000, again incurring a penalty.

The tax law now gives the taxpayer 90 days from the date of the penalty notice to contact the IRS and designate the periods against which the deposits apply. In the above example, by designating that the second month's deposit applies to that month's liability, the taxpayer incurs only the one penalty for the first month's shortfall.

In light of its omission of this relief information from the recent penalty notices, the IRS will give affected taxpayers 90 days from the date of the apology letter it sends them to call and make a deposit designation, rather than 90 days from the notice's date.

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The other penalty relief provision is for employers who are required to change the frequency of their deposits. These taxpayers may get a penalty waiver for the first deposit due under the new schedule, provided they filed the applicable employment tax return on time and had a net worth under \$2 million (\$7 million, in the case of a corporation).

For example, an employer depositing monthly moves to the semiweekly schedule in 1999 if the employment tax liabilities during the 1997 to 1998 lookback period exceeded \$50,000. If the first 1999 payday was Friday, Jan. 15, the tax deposit would have been due on the following Wednesday, Jan. 20, rather than in February. If the taxpayer filed the applicable return on time and met the net worth limit, the IRS would waive any late deposit penalty for Jan. 20. All the taxpayer has to do is contact the IRS and request the waiver.

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